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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,518	04/13/2000	Wallace H. Peterson	P9169	6810

7590 07/21/2003

Todd N Hathaway  
119 N Commercial Street  
#620  
Bellingham, WA 98226-4437

EXAMINER

NGUYEN, CHI Q

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/548,518

Applicant(s)

PETERSON, WALLACE H.

Examiner

Chi Q Nguyen

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-17, 19-30, 34 and 35 is/are allowed.
- 6) ☒ Claim(s) 1, 18 and 31-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

This office action is response to applicant's amendment filed on 5/19/03.

#### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 18, 32-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Briggs (US 3,114,179).

Briggs teaches heat-insulated metal-framed closure comprising first, second glass panes 30, 32 having inner surfaces, a spacer frame 12 having first, second sidewall portions 14, 16, a flexible transverse wall portion 22 interconnecting sidewall portions, 14, 16. The flexible transverse wall portion 22 is flexing of sidewall portions, which thus provides movement of the sidewall portions 14, 16 inwardly and outwardly, a sealing member 26 (fig. 1, cols. 2-3).

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Briggs (US 3,114,179) in view of Kessler (US 4,222,213).

Briggs teaches heat-insulated metal-frame closure comprising first, second glass panels 30, 32, having inner surfaces, a spacer frame 12 having first, second sidewall portions 14, 16, a flexible transverse wall portion 22 interconnecting sidewall portions, 14, 16.

The flexible transverse wall portion 22 is flexing of sidewall portions, which thus provides movement of the sidewall portions 14, 16 inwardly and outwardly, a sealing member 26 is provided at outer surfaces of the glass panes 30, 32 (fig. 1, cols. 2-3).

Briggs does not teach frame is made of roll-formed sheet aluminum alloy material.

Kessler teaches insulating spacer for double insulated glass including a metal spacer or frame 12, which made from roll-formed aluminum (see col. 3, lines 19-20). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine Briggs with Kessler for the frame made from roll-formed aluminum. The motivation for doing so would have been to provide lightweight for the frame and preventing corrosion.

#### ***Allowable Subject Matter***

5. Claims 2-17, 19-30, and 34-35 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art fail to disclose or render obvious the claimed combination including the sidewall portions having web portions extending out and joined by a seam structure as specifically set forth in the claims.

#### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1, 18, 31-33 have been considered but are moot in view of the new ground(s) of rejection.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chi Q. Nguyen whose telephone number is (703) 605-1224, Monday-Thursday (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (703) 308-0839. The fax number for the organization where this application or proceeding assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
CQN

6/13/03

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600